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DEPARTMENT OF COMMERCE

International Trade Administration

[A-552-802]

Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Initiation and Preliminary Results of Changed Circumstances Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: In response to a request for a changed circumstances review (“CCR”) of C. P. Vietnam Corporation, the Department of Commerce (the “Department”) is initiating a CCR of the antidumping duty order on certain frozen warmwater shrimp from the Socialist Republic of Vietnam (“Vietnam”). We have preliminarily concluded that C. P. Vietnam Corporation is the successor-in-interest to C. P. Vietnam Livestock Corporation, and, as a result, should be accorded the same treatment previously accorded to C. P. Vietnam Livestock Corporation with regard to the antidumping duty order on certain frozen warmwater shrimp from Vietnam.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: [Insert date of publication in the *Federal Register*].

FOR FURTHER INFORMATION CONTACT: Jerry Huang at (202) 482-4047, AD/CVD

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SUPPLEMENTARY INFORMATION:

Background

The Department published the antidumping duty order on certain frozen warmwater shrimp from Vietnam on February 1, 2005.¹ C.P. Vietnam Livestock Co., Ltd. was granted separate rate status in the original investigation and the second administrative review.² In July 2008, during the fourth administrative review, the company converted from a limited liability company into a joint stock company, changing its name to C. P. Vietnam Livestock Corporation.³ In September 2011, C. P. Vietnam Livestock Corporation changed its name to C. P. Vietnam Corporation, eliminating the word “Livestock.” On December 13, 2011, C. P. Vietnam Corporation requested that the Department conduct a CCR to confirm that C. P. Vietnam Corporation is the successor-in-interest to C. P. Vietnam Livestock Corporation, for purposes of determining antidumping duties due as a result of the *VN Shrimp Order*.

Scope of the Order⁴

The scope of the order includes certain warmwater shrimp and prawns, whether frozen, wild-caught (ocean harvested) or farm-raised (produced by aquaculture), head-on or head-off, shell-on or peeled, tail-on or tail-off,⁵ deveined or not deveined, cooked or raw, or otherwise processed in frozen form.

The frozen warmwater shrimp and prawn products included in the scope of this order,

¹ See *Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Frozen Warmwater Shrimp From the Socialist Republic of Vietnam*, 70 FR 5152 (February 1, 2005) (“*VN Shrimp Order*”).

² See *VN Shrimp Order*; see also *Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Final Results and Final Partial Rescission of Antidumping Administrative Review*, 73 FR 52273 (September 9, 2008).

³ See *Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 75 FR 47771 (August 9, 2010).

⁴ See *Certain Frozen Warmwater Shrimp From Brazil, India, the People’s Republic of China, Thailand, and the Socialist Republic of Vietnam: Amended Antidumping Duty Orders in Accordance with Final Court Decision*, 76 FR 23277 (April 26, 2011).

⁵ “Tails” in this context means the tail fan, which includes the telson and the uropods.

regardless of definitions in the Harmonized Tariff Schedule of the United States (“HTS”), are products which are processed from warmwater shrimp and prawns through freezing and which are sold in any count size.

The products described above may be processed from any species of warmwater shrimp and prawns. Warmwater shrimp and prawns are generally classified in, but are not limited to, the *Penaeidae* family. Some examples of the farmed and wild-caught warmwater species include, but are not limited to, whiteleg shrimp (*Penaeus vannamei*), banana prawn (*Penaeus merguensis*), fleshy prawn (*Penaeus chinensis*), giant river prawn (*Macrobrachium rosenbergii*), giant tiger prawn (*Penaeus monodon*), redspotted shrimp (*Penaeus brasiliensis*), southern brown shrimp (*Penaeus subtilis*), southern pink shrimp (*Penaeus notialis*), southern rough shrimp (*Trachypenaeus curvirostris*), southern white shrimp (*Penaeus schmitti*), blue shrimp (*Penaeus stylirostris*), western white shrimp (*Penaeus occidentalis*), and Indian white prawn (*Penaeus indicus*).

Frozen shrimp and prawns that are packed with marinade, spices or sauce are included in the scope of this order. In addition, food preparations (including dusted shrimp), which are not “prepared meals,” that contain more than 20 percent by weight of shrimp or prawn are also included in the scope of this order.

Excluded from the scope are: (1) Breaded shrimp and prawns (HTS subheading 1605.20.10.20); (2) shrimp and prawns generally classified in the *Pandalidae* family and commonly referred to as coldwater shrimp, in any state of processing; (3) fresh shrimp and prawns whether shell-on or peeled (HTS subheadings 0306.23.00.20 and 0306.23.00.40); (4) shrimp and prawns in prepared meals (HTS subheading 1605.20.05.10); (5) dried shrimp and

prawns; (6) Lee Kum Kee's shrimp sauce;⁶ (7) canned warmwater shrimp and prawns (HTS subheading 1605.20.10.40); and (8) certain battered shrimp. Battered shrimp is a shrimp-based product: (1) That is produced from fresh (or thawed-from-frozen) and peeled shrimp; (2) to which a “dusting” layer of rice or wheat flour of at least 95 percent purity has been applied; (3) with the entire surface of the shrimp flesh thoroughly and evenly coated with the flour; (4) with the non-shrimp content of the end product constituting between four and 10 percent of the product's total weight after being dusted, but prior to being frozen; and (5) that is subjected to individually quick frozen (“IQF”) freezing immediately after application of the dusting layer. When dusted in accordance with the definition of dusting above, the battered shrimp product is also coated with a wet viscous layer containing egg and/or milk, and par-fried.

The products covered by the order are currently classified under the following HTS subheadings: 0306.13.0003, 0306.13.0006, 0306.13.0009, 0306.13.0012, 0306.13.0015, 0306.13.0018, 0306.13.0021, 0306.13.0024, 0306.13.0027, 0306.13.0040, 1605.20.1010 and 1605.20.1030. These HTS subheadings are provided for convenience and for customs purposes only and are not dispositive, but rather the written description of the scope of the order is dispositive.

Initiation and Preliminary Results of Changed Circumstances Review

Pursuant to section 751(b)(1) of the Tariff Act of 1930, as amended (“the Act”), and 19 CFR 351.216, the Department will conduct a CCR upon receipt of information concerning, or a request from an interested party for a review of, an antidumping duty order which shows changed circumstances sufficient to warrant a review of the order. The information submitted by C. P. Vietnam Corporation supporting its claim that C. P. Vietnam Corporation is the successor-

⁶ The specific exclusion for Lee Kum Kee's shrimp sauce applies only to the scope in the People's Republic of China case.

in-interest to C. P. Vietnam Livestock Corporation, demonstrates changed circumstances sufficient to warrant such a review.⁷

In accordance with the above-referenced regulation, the Department is initiating a CCR to determine whether C. P. Vietnam Corporation is the successor-in-interest to C. P. Vietnam Livestock Corporation. In determining whether one company is the successor-in-interest to another, the Department examines a number of factors including, but not limited to, changes in management, production facilities, supplier relationships, and customer base.⁸ Although no single factor will necessarily provide a dispositive indication of succession, generally, the Department will consider one company to be a successor-in-interest to another company if its resulting operation is similar to that of its predecessor.⁹ Thus, if the evidence demonstrates that with respect to the production and sale of the subject merchandise, the new company operates as the same business entity as the prior company, the Department will assign the new company the cash-deposit rate of its predecessor.¹⁰

In its December 13, 2011, submission, C. P. Vietnam Corporation provided information to demonstrate that it is the successor-in-interest to C. P. Vietnam Livestock Corporation. With respect to management prior to and following the name change, the submission indicates that there has been no change in management, and the management structure has been unaffected by

⁷ See 19 CFR 351.216(d); see also *Notice of Initiation and Preliminary Results of Antidumping Duty Changed Circumstances Review: Carbon and Certain Alloy Steel Wire Rod From Mexico*, 75 FR 67685 (November 3, 2010).

⁸ See *Industrial Phosphoric Acid From Israel; Final Results of Antidumping Duty Changed Circumstances Review*, 59 FR 6944 (February 14, 1994).

⁹ See *Brass Sheet and Strip From Canada; Final Results of Antidumping Duty Administrative Review*, 57 FR 20460 (May 13, 1992).

¹⁰ *Id.*; *Notice of Final Results of Changed Circumstances Antidumping Duty Administrative Review: Polychloroprene Rubber From Japan*, 67 FR 58 (January 2, 2002); see also *Ball Bearings and Parts Thereof from France: Final Results of Changed-Circumstances Review*, 75 FR 34688 (June 18, 2010) (the Department found successorship where the company changed its ownership structure, but made only minor changes to its operations, management, supplier relationships, and customer base).

the change in the company's name.¹¹ In addition, the submission indicates that the production facilities and equipment used by C. P. Vietnam Corporation and C. P. Vietnam Livestock Corporation are identical. Following the name change, C. P. Vietnam Corporation retained the same physical address and equipment as C. P. Vietnam Livestock Corporation.¹² Furthermore, C. P. Vietnam Corporation has continued to use all of the same raw shrimp and packing materials suppliers that C. P. Vietnam Livestock Corporation used prior to the name change.¹³ Finally, C. P. Vietnam Corporation states that it has maintained the same U.S. customer base as C. P. Vietnam Livestock Corporation, listing the names of its U.S. customers.¹⁴ Given the continuity noted above, we have preliminarily determined that no material change has occurred with respect to C. P. Vietnam Livestock Corporation's management, production facilities, suppliers, or customer base as a result of the name change to C. P. Vietnam Corporation.

When it concludes that expedited action is warranted, the Department may publish the notice of initiation and preliminary results for a CCR concurrently.¹⁵ We have determined that expedition of this CCR is warranted because we have the information necessary to make a preliminary finding already on the record.¹⁶ In this case, we preliminarily find that C. P. Vietnam Corporation is the successor-in-interest to C. P. Vietnam Livestock Corporation and, as such, is entitled to C. P. Vietnam Livestock Corporation's cash-deposit rate with respect to entries of subject merchandise.

Should our final results remain the same as these preliminary results, effective the date of publication of the final results, we will instruct U.S. Customs and Border Protection to assign

¹¹ See Attachment 4 of CPV's December 13, 2011, submission.

¹² See Attachments 1 and 5 of CPV's December 13, 2011, submission.

¹³ See Attachment 6 of CPV's December 13, 2011, submission.

¹⁴ See CPV's December 13, 2011, submission at 7.

¹⁵ See 19 CFR 351.221(c)(3)(ii); see also *Initiation and Preliminary Results of Antidumping Duty Changed Circumstances Review: Canned Pineapple Fruit From Thailand*, 69 FR 30878 (June 1, 2004).

¹⁶ See *Ball Bearings and Parts Thereof from Japan: Initiation and Preliminary Results of Changed Circumstances Review*, 71 FR 14679 (March 23, 2006).

entries of merchandise produced or exported by C. P. Vietnam Corporation the antidumping duty cash-deposit rate applicable to C. P. Vietnam Livestock Corporation.

Public Comment

Any interested party may request a hearing within 14 days of publication of this notice, in accordance with 19 CFR 351.310(c). Interested parties may submit case briefs and/or written comments no later than 14 days after the date of publication of this notice. Rebuttal briefs and rebuttals to written comments, which must be limited to issues raised in such briefs or comments, may be filed not later than 5 days after the case briefs. Any hearing, if requested, will normally be held two days after rebuttal briefs are due, in accordance with 19 CFR 351.310(d)(1). Parties who submit case briefs or rebuttal briefs in this CCR are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument with an electronic version included. Consistent with 19 CFR 351.216(e), we will issue the final results of this CCR no later than 270 days after the date on which this review was initiated or within 45 days of publication of these preliminary results if all parties agree to our preliminary finding.

We are issuing and publishing this initiation and preliminary results notice in accordance with sections 751(b)(1) and 777(i)(1) of the Act and 19 CFR 351.216 and 351.221(c)(3).

Paul Piquado
Assistant Secretary
for Import Administration

January 25, 2012
Date

